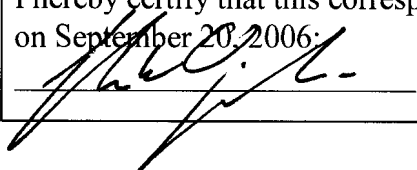


CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is submitted to the USPTO through EFS-WEB,
on September 20, 2006:



PATENT APPLICATION
Docket No.: 3003.2.10B

UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Sanchaita Datta and Ragula Bhaskar
Application No.: 10/034,190
Filed: December 28, 2001
For: Domain name resolution making IP address selections in
response to connection status when multiple connections
are present
Art Unit: 2155
Examiner: Philip B. Tran

PETITION FOR ENTRY OF APPEAL BRIEF
(Regarding an Application which has been *Made Special*)

Honorable Commissioner for Patents:

This is a petition pursuant to one or more of 37 C.F.R. §§ 1.181, 1.182,
41.31 *et seq.* A filing fee of \$400 accompanies this petition, in view of 37 C.F.R.
§§ 1.17(f), 41.20(a).

Facts

This application has been made special; accelerated examination was
granted over three years ago, on June 2, 2003.

A Final Office Action was mailed February 7, 2006. A month later, a Notice of Appeal and an Appeal Brief were filed (March 10, 2006). Two months after that, a Notification of Non-Compliant Appeal Brief was mailed (May 11, 2006). This first Notification checked boxes 4, 5, 6 of form PTOL-462 but offered no other explanation. A Supplemental Appeal Brief was mailed a week later, with clearly delineated clarifying material added (May 17, 2006).

A second Notification of Non-Compliant Appeal Brief was mailed three months later (August 21, 2006). This second Notification withdrew the checks on boxes 5 and 6, but maintained the check on box 4. A standard paragraph next to box 4 states that the “brief does not contain a concise explanation of the subject matter defined in each of the independent claims...” The second Notification also added a paragraph from the Examiner, which paraphrased paragraph 4 of form PTOL-462, and asserted that “Applicant has no clear explanation whatsoever for each claimed function/ limitation of each claim. Instead, applicant quotes several pages and figures from specification.”

A Response to the second Notification was filed two days later (August 23, 2006). In this Response, the undersigned submitted that the Appeal Brief was compliant, noting that “The Board should have no trouble handling this appeal on the basis of the explanation of claimed subject matter that is already of record.” The undersigned also respectfully asked the Examiner for a specific example of an explanation of claimed subject matter that the Examiner would accept, so that the appeal could move forward.

A third Notification was mailed three weeks later (September 14, 2006). It repeats the content of the second Notification, and adds an attachment. The attachment merely repeats material from the Appeal Brief, asserting again that the

material is inadequate. Despite the undersigned's request, the third Notification does not include any example of what would be acceptable to this Examiner.

In short, the application was filed almost five years ago, and it has been made special. Notice of Appeal and an Appeal Brief were filed over six months ago, but the Board of Appeals has not been given a chance to rule on the merits. Indeed, the Examiner has not yet Answered the Appeal Brief. Instead, most of past six months period has been spent waiting for the Examiner to act on a question that is tangential to the merits of the appeal.

Argument

The level of detail and the organization of the Appeal Brief's Summary of Claimed Subject Matter do satisfy the Office's requirements. Contrary to the Examiner's assertions, the Supplemental Appeal Brief filed May 17, 2006 does include detailed references to the specification by page and line number, and to the drawings by reference characters, in clear correspondence with each claimed limitation of the independent claims.

Indeed, two other appeals filed recently by the undersigned before two other Examiners have subject matter summaries with much the same level of detail and organization as the present Appeal Brief, and both of those other appeal briefs have been recognized by the Office as compliant with 37 C.F.R. § 41.37; *see* Exhibit A (appeal brief filed May 22, 2006 in 10/263548), Exhibit B (appeal brief filed July 3, 2006 in 09/999774). The present Appeal Brief is likewise compliant.

Relief Sought

The Appeal Brief filed May 17, 2006 should be entered, and the Examiner should then provide an Examiner's Answer so that the appeal can move forward.

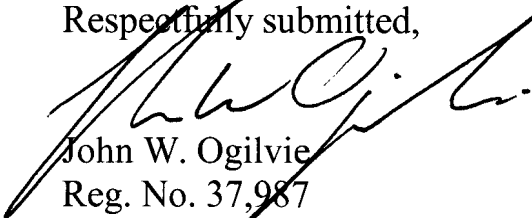
If the Office determines that some further change to the Appeal Brief is needed before it can be entered (despite its consistency with appeal briefs recently entered by other Examiners), then the Office should provide a specific example of what would be accepted.

The undersigned also respectfully asks for such other relief as the Director deems appropriate.

Dated September 20, 2006.

\\PetnEntryAppealBrief-10B

Respectfully submitted,



John W. Ogilvie

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Petition for Entry of Appeal Brief
Serial No. 10/034,190

Exhibit A



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10/263,548

PROVIDING NOTICE OF PATENT RIGHTS

Application Data	Transaction History	Image File Wrapper	Patent Term Adjustments	Continuity Data	Publication Documents
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Transaction History

Date	Transaction Description
09-19-2006	Application Is Considered Ready for Issue
09-16-2006	Issue Fee Payment Verified
09-16-2006	Issue Fee Payment Received
→ 09-12-2006	Mail Notice of Allowance ←
09-12-2006	Mail Examiner's Amendment
09-05-2006	Notice of Allowance Data Verification Complete
07-30-2006	Claims PTO
07-27-2006	Examiner's Amendment Communication
05-24-2006	Date Forwarded to Examiner
→ 05-22-2006	Appeal Brief Filed ←
05-19-2006	Notice -- Defective Appeal Brief
03-14-2006	Date Forwarded to Examiner
03-09-2006	Defective / Incomplete Appeal Brief Filed
03-09-2006	Appeal Brief Filed
03-09-2006	Notice of Appeal Filed
01-19-2006	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received
01-11-2006	Mail Final Rejection (PTOL - 326)
01-09-2006	Final Rejection
10-28-2005	Date Forwarded to Examiner
10-24-2005	Fee Payment Recorded (fees filed separately)
10-17-2005	Mail Notice of Required Fees Due
10-15-2005	Notice of Additional Fee Due
10-11-2005	Date Forwarded to Examiner
10-04-2005	Response after Non-Final Action
08-31-2005	Mail Non-Final Rejection
08-29-2005	Non-Final Rejection

Related Appeals and Interferences

There are no related appeals or interferences.

Status of Claims

Claims 1, 3-11, and 13-22 are pending, are rejected, and are appealed.

Status of Amendments

No claim amendment was filed after final rejection. However, a Declaration After Final was filed January 19, 2006, and is incorporated herein.

Summary of Claimed Subject Matter

The invention is meant to assist a patentee by providing evidence for patent enforcement proceedings, *see, e.g.*, application at page 4 lines 3-11, page 5 lines 2-9. As illustrated in Figure 1, the invention provides methods for providing notice of patent rights; the invention may also be embodied in a device. The invention may use computer-implemented steps, *see, e.g.*, application at page 4 line 25, page 5 lines 27-29, and page 6 line 28 through page 7 line 9.

In one inventive method, a presenting step 104 presents a notice to a device user indicating that the device is subject to rights under a patent; a preventing step 102 prevents, through program code/hardware restrictions, user access to at least one feature of the device unless and until an indication is made that the user has reviewed the patent, whereon access to the feature is permitted 118. A method according to the invention may also present 108 an infringement warning to the user, and it may present 110 license and/or contact information to the user. A

device that provides such notice may be, but need not be, the same device covered by the patent.

The invention goes beyond merely providing a patent number; *see, e.g.*, application at page 5 lines 10-16. Independent claims 1 and 11 each require some indication (which could be false) that the user has seen the patent itself, not merely the patent's number. Thus, claim 1 requires "preventing, through program code/hardware restrictions, user access to at least one feature of the device unless and until *an indication is made that the user has reviewed the patent*", and claim 11 requires "preventing the user from accessing at least one feature of the device unless and until *an indication is made that the user has reviewed the patent*" (emphases added). Accordingly, before a method according to the invention allows 118 the user access to a core feature, it may display 112 a copy of the patent to the user, and/or it may present 106 a "previously reviewed" option to the user, which allows the user to assert (possibly falsely) that the user has previously reviewed the patent. Thus, in court proceedings the patentee can use the invention to help establish that the user either saw the actual patent in question, or else lied by saying he had seen it in order to use the desired feature; *see, e.g.*, application at page 3 line 24 through page 4 line 11.

In view of this, supporting explanation for the independent claims pursuant to point 4 of the Notification is found in the specification at least as follows:

1. A method for providing notice (page 3 lines 16-23) of patent rights (Figure 1, application pages 1-11), comprising the computer-implemented steps of:

presenting (104) a notice to a device user indicating that the device is subject to rights under a patent; and

preventing (102), through program code/hardware restrictions, user access to at least one feature of the device unless and until an indication is made (page 3 line 24 – page 4 line 11) that the user has reviewed (page 3 line 16 – page 4 line 11) the patent; thereby confirming that the user has actual notice of the patent and its purported coverage of the device.

11. A device (page 3 lines 5-7, page 5 lines 25-31) configured to provide notice (page 5 line 10 – page 6 line 3) of patent rights, comprising: a notice to a user of the device indicating that the device is subject to rights under a patent; a screen (page 7 lines 5-10) capable of displaying the patent; and a program code/hardware restrictions barrier preventing (102; page 6 lines 4-16) the user from accessing at least one feature of the device unless and until an indication is made that the user has reviewed the patent, thereby confirming that the user has actual notice of the patent and its purported coverage of the device.

Note that these reference numbers refer not only to the drawings but also to the specific locations in the text where they are recited. The Office can readily determine those locations by searching in an electronic copy of the application, or by visually scanning the application. Also, specific lines of the application listed here are not necessarily the only part of the application text that pertain to the claim feature in question.

Petition for Entry of Appeal Brief
Serial No. 10/034,190

Exhibit B



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09/999,774

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Application Data	Transaction History	Image File Wrapper	Continuity Data	Published Documents	Publication Dates
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Transaction History

Date	Transaction Description
09-06-2006	Mail Examiner's Answer
09-05-2006	Examiner's Answer to Appeal Brief ←
07-12-2006	Date Forwarded to Examiner
07-03-2006	Appeal Brief Filed ←
07-03-2006	Notice of Appeal Filed
07-03-2006	Request for Extension of Time - Granted
01-12-2006	Mail Final Rejection (PTOL - 326)
01-09-2006	Final Rejection
11-09-2005	Correspondence Address Change
11-09-2005	Change in Power of Attorney (May Include As
11-09-2005	Date Forwarded to Examiner
11-04-2005	Response after Non-Final Action
10-06-2005	Case Docketed to Examiner in GAU
08-08-2005	Mail Non-Final Rejection
08-05-2005	Non-Final Rejection
07-20-2005	Case Docketed to Examiner in GAU
04-18-2005	Date Forwarded to Examiner
04-18-2005	Date Forwarded to Examiner
04-14-2005	Request for Continued Examination (RCE)
04-18-2005	DISPOSAL FOR A RCE/CPA/129 (express a
04-14-2005	Request for Extension of Time - Granted
04-14-2005	Workflow - Request for RCE - Begin
02-23-2005	Correspondence Address Change
02-24-2005	Change in Power of Attorney (May Include As
12-28-2004	Mail Final Rejection (PTOL - 326)
12-21-2004	Final Rejection

Status of Claims

Claims 1-38 are pending, are rejected, and are appealed.

Status of Amendments

No claim amendment was filed after final rejection.

Summary of Claimed Subject Matter

Pursuant to 37 C.F.R. § 41.37(c)(1)(v), the following is a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawings by reference numbers.

A key concept of the claimed subject matter is the storage of a file's *claimed* physical location within the file (for instance) so that this claimed location can be compared with the *actual* physical location of the file. The application's claims build on this concept in various ways, e.g., with embodiments for creating such files, and with embodiments for comparing the claimed and actual locations of such a file to determine if the file is an original. The application's claims are also presented in various embodiment types (method, configured storage medium or memory, system), and with varying levels of detail.

For example, claim 1 presents a method for determining whether a given file 512 stored on a computer-readable storage medium 510 is an original or a copy, the method comprising the computer implemented steps of: reading 306 a claimed physical location identifier 516 from a secured location claim that is associated with the file; ascertaining 308 the actual physical location of the file; comparing 310 the claimed physical location identifier to the actual physical location 514;

and concluding 314 that the file is original if the claimed physical location identifier identifies the actual physical location, and concluding 314 that the file is a copy if the claimed physical location identifier does not identify the actual physical location. Claim 1 is illustrated at least in Figure 3, and is discussed at least within the text at page 15 line 17 through page 16 line 16.

Claim 14 presents a method for creating an original file which can be distinguished from a copy of the file, e.g., by using the method of claim 1. The method of claim 14 comprises the computer implemented steps of: storing 202 data 518 in a file 512 on a computer-readable storage medium 510; ascertaining 204 the actual physical location 514 of the file; writing 208, in a location claim 516, a claimed physical location identifier which identifies the actual physical location of the file and is more specific about location than a mere logical location identifier, the physical location identifier including at least one of: a sector address, a file system cluster number, a file system block address, a CPU serial number, a network machine address, an IP address, a tape address, a particular fixed drive storage medium, a particular removable drive storage medium, a physical parameter of a storage device; associating 214 the written location claim with the file if they are not already associated with each other; and securing 212 the location claim. Claim 14 is illustrated at least in Figure 2, and is discussed at least within the text at page 11 line 3 through page 14 line 28.

Claim 22 presents a computer-readable storage medium configured with software to perform a method for determining whether a given file stored on a computer-readable storage medium is an original or a copy, the method comprising the computer implemented steps of: reading 306 a claimed physical location identifier 516 from within the file 512; ascertaining 308 the actual

physical location 514 of the file; comparing 310 the claimed physical location identifier to the actual physical location; and concluding that the file is original if the claimed physical location identifier identifies the actual physical location, and concluding 314 that the file is a copy if the claimed physical location identifier does not identify the actual physical location; wherein the physical location identifier 516 includes at least one of: a sector address, a file system cluster number, a file system block address, a CPU serial number, a particular fixed drive storage medium, a particular removable drive storage medium. Claim 22 is illustrated at least in Figure 3, and is discussed at least within the text at page 15 line 17 through page 16 line 16, and page 21 line 29 through page 22 line 19.

Claim 23 presents a computer-readable storage medium configured with software to perform a method for creating an original file which can be distinguished from a copy of the file, the method comprising the computer implemented steps of: storing 202 data 518 in a file 512 on a computer-readable storage medium 510; ascertaining 204 the actual physical location 514 of the file; and writing 208 into the file a claimed physical location identifier 516 which identifies the actual physical location of the file and is more specific about location than a mere logical location identifier. Claim 23 is illustrated at least in Figure 2, and is discussed at least within the text at page 11 line 3 through page 14 line 28, and page 21 line 29 through page 22 line 19.

Claim 24 presents a computer system for managing original files, comprising: a computer-readable storage medium 510 for storing original files; a processor 502 operably coupled with a memory 506 configured with software 508 to perform a method for determining whether a given file stored on the computer-readable storage medium is an original or a copy, the method comprising the

computer implemented steps of: reading 306 a claimed physical location identifier 516 from a secured location claim that is associated with the file; ascertaining 308 the actual physical location 514 of the file; comparing 310 the claimed physical location identifier to the actual physical location; and concluding 314 that the file is original if the claimed physical location identifier identifies the actual physical location, and concluding that the file is a copy if the claimed physical location identifier does not identify the actual physical location. Claim 24 is illustrated at least in Figure 5, and is discussed at least within the text at page 15 line 17 through page 16 line 16, and page 18 line 13 through page 21 line 27.

Claim 30 presents a computer system for managing original files, comprising: a computer-readable storage medium 510 for storing original files; a processor 502 operably coupled with a memory 506 configured with software 508 to perform a method for creating an original file which can be distinguished from a copy of the file, the method comprising the computer implemented steps of: storing 202 data 518 in a file 512 on a computer-readable storage medium; ascertaining 204 the actual physical location 514 of the file; writing 208, in a location claim 516, a claimed physical location identifier which identifies the actual physical location of the file and is more specific about location than a mere logical location identifier, the physical location identifier including at least one of the following or an equivalent thereof: a sector address, a file system cluster number, a file system block address, a CPU serial number, a network machine address, an IP address, a tape address, a private network identifier, a particular fixed drive storage medium, a particular removable drive storage medium, a physical parameter of a storage device; associating 214 the written location claim with the file if they are not already associated with each other; and securing 212

the location claim. Claim 30 is illustrated at least in Figure 2, and is discussed at least within the text at page 11 line 3 through page 14 line 28, and page 18 line 13 through page 21 line 27.

Claim 36 presents a computer memory 506 configured by data to form a structure comprising a file 512 having an actual physical location 514, and a location claim containing a claimed physical location identifier 516 which identifies the actual physical location of the file and is more specific about location than a mere logical location identifier, wherein the location claim is structurally associated with the file, and wherein the physical location identifier includes at least one of: a sector address, a file system cluster number, a file system block address, a CPU serial number, a tape address, a particular fixed drive storage medium, a particular removable drive storage medium, a physical parameter of a storage device. Claim 36 is illustrated at least in Figure 5, and is discussed at least within the text at page 22 lines 9 through 19.

Specific lines of the application text and drawing figures listed here are not necessarily the only part of the application that pertain to the claim feature in question.

Grounds of Rejection to be Reviewed on Appeal

The references cited by the rejections include “Copy Detection Mechanisms for Digital Documents” by Brin et al. (“Brin”), and U.S. Patent No. 6370549 to Saxton (“Saxton”). All rejections were made under 35 U.S.C. § 103(a). The grounds of rejection raise these questions for review: